

DELTA PROTECTION COMMISSION

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July 14, 1995

TO: Delta Protection Commission

FROM: Margit Aramburu, Executive Director

RE: Legislation concerning the authority to regulate the disposal of sewage sludge on lands at agronomic rates to agricultural lands; SB 205-Senator Kelley.
(For Commission Information Only.)

Staff has become aware that legislation, specifically SB 205, is currently passing through the Legislature. This legislation, if enacted in its current form, may have some effect on the Delta Protection Commission's Land Use and Resource and Management Plan Utilities and Infrastructure policy P-3.

SB 205 authorizes the State's nine regional water quality control boards to issue general waste discharge permits for the disposal of non-hazardous Class A sewage sludge, or biosolids, at agronomic rates to agricultural lands. Existing law requires a new permit for each parcel upon which biosolids are being spread, regardless of the source of the biosolids. SB 205 allows the regional boards to waive the requirement for the new permit if it is satisfied that the source of the material has been tested and found to be non-hazardous. This general permit practice is currently being developed by the Central Valley Regional Water Quality Board.

SB 205 also contains language that the regional boards are to have exclusive jurisdiction in the regulation of sewage sludge. The legislation read: "except as specified in subdivisions (e) and (f) [see NOTE below], general waste discharge requirements prescribed by a regional board pursuant to this section supersede regulations adopted by any other state agency to regulate sludge and other biological solids applied directly to agricultural lands at agronomic rates."

The language of the bill may be construed to limit the ability of the Delta Protection Commission to address the disposal of sewage sludge on Delta Primary Zone agricultural lands by regulation, notwithstanding the policy stated in the Land Use and Resource

Management Plan.

The current language of SB 205 specifically states that if the regional boards adopt general requirements, these requirements will supersede "regulations" of other state agencies. As you know, the Delta Protection Commission is currently being sued in State Superior Court by Wheelabrator-BioGro who is asserting that Utilities and Infrastructure policy P-3 is a "regulation."

SB 205 was passed by the Senate, and is currently in committee in the Assembly. Pima Gro, a biosolids firm, introduced the legislation and is the main supporter, along with the Association of California Water Agencies.

[NOTE: Subsection (e) excepts the California Integrated Waste Management Board and the State Air Resources Board from the regional board's superseding powers by allowing Integrated Waste Management to regulate the handling of sewage sludge for composting, depositing into a landfill, or etc. Subsection (f) excepts the State Air Resources Board, air pollution control districts, or air quality management districts from the regional board's exclusive jurisdiction in this area by allowing them to regulate the handling of sewage for incineration.

Attachment

AMENDED IN ASSEMBLY JUNE 21, 1995

AMENDED IN ASSEMBLY JUNE 2, 1995

AMENDED IN SENATE MAY 1, 1995

AMENDED IN SENATE MARCH 30, 1995

AMENDED IN SENATE MARCH 16, 1995

SENATE BILL

No. 205

Introduced by Senator Kelley

February 6, 1995

An act to add Section 13274 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 205, as amended, Kelley. Waste discharge requirements: sewage sludge: waiver.

The Porter-Cologne Water Quality Control Act generally requires the California regional water quality control boards to prescribe waste discharge requirements for individual waste discharges.

This bill would require the State Water Resources Control Board or a regional board, upon receipt of applications for waste discharge requirements for discharges of dewatered, treated, or chemically fixed sewage sludge and other biological solids, to prescribe general waste discharge requirements for those sludges and solids, as specified. The bill would authorize the state board or a regional board to charge a fee to cover the costs incurred by the board in the

administration of the application process relating to the prescribed general waste discharge requirements. The bill would provide that those provisions are not intended to affect the jurisdiction of the California Integrated Waste Management Board, the State Air Resources Board, or an air pollution control district or air quality management district regarding sewage sludge or other biological solids, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13274 is added to the Water
2 Code, to read:
3 13274. (a) (1) The state board or a regional board
4 , upon receipt of applications for waste discharge
5 requirements for discharges of dewatered, treated, or
6 chemically fixed sewage sludge and other biological
7 solids, shall prescribe general waste discharge
8 requirements for those sludges and solids. General waste
9 discharge requirements shall replace individual waste
10 discharge requirements for sewage sludge and other
11 biological solids and their prescription shall be considered
12 to be a ministerial action.
13 (2) The general waste discharge requirements shall
14 set minimum standards for agronomic applications of
15 sewage sludge and other biological solids and the use of
16 that sludge and those other solids as a soil amendment or
17 fertilizer in agriculture, forestry, and surface mining
18 reclamation, and may permit the transportation of that
19 sludge and those other solids and the use of that sludge
20 and those other solids at more than one site. The
21 requirements shall include provisions to mitigate
22 significant environmental impacts, potential soil erosion,
23 odors, the degradation of surface water quality or fish or
24 wildlife habitat, the accidental release of hazardous
25 substances, and any potential hazard to the public health
26 or safety.

1 (b) The state board or a regional board, in prescribing
2 general waste discharge requirements pursuant to this
3 section, shall comply with Division 13 (commencing with
4 Section 21000) of the Public Resources Code and
5 guidelines adopted pursuant to that division, and shall
6 consult with the State Air Resources Board, the
7 Department of Food and Agriculture, and the California
8 Integrated Waste Management Board.

9 (c) The state board or a regional board may charge a
10 reasonable fee to cover the costs incurred by the board in
11 the administration of the application process relating to
12 the general waste discharge requirements prescribed
13 pursuant to this section.

14 (d) Notwithstanding any other provision of law,
15 *except as specified in subdivisions (e) and (f)*, general
16 waste discharge requirements prescribed by a regional
17 board pursuant to this section supersede regulations
18 adopted by any other state agency to regulate sewage
19 sludge and other biological solids applied directly to
20 agricultural lands *at agronomic rates*.

21 (e) Nothing in this section is intended to affect the
22 jurisdiction of the California Integrated Waste
23 Management Board to regulate the handling of sewage
24 sludge or other biological solids for composting, deposit
25 in a landfill, or other use.

26 (f) Nothing in this section is intended to affect the
27 jurisdiction of the State Air Resources Board or an air
28 pollution control district or air quality management
29 district to regulate the handling of sewage sludge or other
30 biological solids for incineration.

31 SEC. 2. If the State Water Resources Control Board or
32 a regional water quality control board determines that
33 the preparation of an environmental impact report,
34 pursuant to Division 13 (commencing with Section
35 21000) of the Public Resources Code, is required in
36 conjunction with the adoption of general waste discharge
37 requirements pursuant to Section 13274 of the Water
38 Code, that board shall take no further action to adopt
39 those requirements until funding for the preparation of

- 1 the environmental impact report, other than general
- 2 funds, is available through public or private sources.